

STATE OF NEVADA

JIM GIBBONS
Governor

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Director



RICHARD WHITLEY, MS
Administrator

TRACEY D. GREEN, MD
State Health Officer

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH DIVISION

4150 Technology Way, Suite 300
Carson City, Nevada 89706

Telephone: (775) 684-4200 · Fax: (775) 684-4211

May 20, 2011

MEMORANDUM

To: Frances Barron, Chairperson
State Board of Health

From: Richard Whitley, MS, Secretary
State Board of Health

A handwritten signature in dark ink, appearing to be "RW", written over the printed name of Richard Whitley.

Re: Case #644: Great Basin Surgical Center: Request for variance to NAC 449.993(3).

STAFF REVIEW

NAC 449.993(3) states, "Only a person designated as qualified by the radiologist may operate the equipment for X rays. Only a physician may perform a fluoroscopy."

Great Basin Surgical Center is licensed by HCQC, accredited and deemed by AAAHC and a CMS certified ambulatory surgery center located in Elko, Nevada. The facility has been existence since October of 1998. The facility offers numerous types of surgery including: foot, general, obstetrics/gynecology, ophthalmology, orthopedic, otolaryngology, plastic, urology and pain management.

The surgery center is requesting variance from the regulation that states, "Only a physician may perform fluoroscopy", so that other individuals, in this case a certified registered nurse anesthetist (CRNA) will be permitted to perform fluoroscopy.

Review of the information and certificates submitted with the application revealed the CRNA (Gregory Kronenberg) has no specific radiation control qualifications or training; rather there is only an indication that each of his pain management certification courses included radiation safety.

In coordination with the radiation control section of HCQC, information was reviewed concerning the risk of injuries associated with interventional radiography procedures. One article suggests that over the past several years, the number of interventional procedures have increased and so have the number of reported injuries. According to the article, the number of skin injuries such as, erythema to necrosis and ulceration have increased and many of these injuries were avoidable. The article also indicates that there are multiple ways to reduce the amount of radiation during a fluoroscopic procedure,

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including collimation, inherent filtration and dose-saving techniques; however, without proper training on how to best use these methods, may actually result in greater exposure to the patient (*Brusin, 2007*). Operators of fluoroscopic equipment need to be well trained on the use and risks of ionizing radiation while still achieving positive medical results. The reason for requiring licensure of individuals using ionizing radiation is because of the danger the radiation can cause. The risks associated with radiation exposure are not only to the patient but also to the operator of the equipment and ancillary personnel in the room.¹

Review of the standards published by the American Association of Nurse Anesthetists revealed no reference to operation of fluoroscopy machinery and in fact delineates eleven standards related to: patient assessment, informed consent, planning anesthesia care, implementing and adjustment of the anesthesia care plan, monitoring of patients physiologic condition during anesthesia, documentation of pertinent information, transfer of patient care in a manner that assures continuity and patient safety, adherence to safety precautions, precautions to minimize risk of infection, assessment of patient outcomes and respect for basic patient rights.²

Additional review of this application for variance in coordination with the radiation control section of HCQC revealed that the applicant did not request variance to NAC 459.574(3)(a), which requires that fluoroscopy be operated, "only by a licensed practitioner of the healing arts." Granting of this variance to a medical facility regulation would necessarily be in direct conflict with the radiation control regulation.

Lastly, the Nevada State Board of Nursing has indicated that operation of fluoroscopy equipment is not in the scope of practice for a CRNA in Nevada.

INTENT OF THE REGULATION

The intent of the regulation is to protect the public health and safety by ensuring that persons operating ionizing radiation equipment (X-ray) are appropriately trained in the use and safety of the equipment. Within chapter 449 of NAC (section 449.61378 regarding independent centers for emergency medical care) there is reference to appropriately trained individuals, "...a person who is certified by the American Registry of Radiological Technologists or a person who has equivalent qualifications." Physicians have several years of residency training for safe and practical use of ionizing radiation equipment.

EXCEPTIONAL AND UNDUE HARDSHIP

The facility did not explain exception hardship, but rather indicates that because a physician must be in the procedure room, scheduling is very difficult and there is added cost to the patient.

DEGREE OF RISK TO HEALTH AND SAFETY

Granting this variance could cause detriment to the public health and safety and could also set a precedence for the Board to approve like variances for less qualified applicants.

PUBLIC COMMENT RECEIVED

None

¹ www.radiologynursing.org, Volume 29 Issue 2

² www.aana.com, Scope and Standards for Nurse Anesthesia Practice, copyright 2010

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LAS VEGAS, NEVADA

STAFF RECOMMENDATION

Staff recommends that the Board of Health deny Case #644: Great Basin Surgical Center: Request for variance to NAC 449.993(3).

PRESENTER:

Paul Shubert, Health Facility Surveyor IV

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RADIATION CONTROL
PROGRAM

BUREAU OF HEALTH CARE
QUALITY & COMPLIANCE
CARSON CITY, NV

NEVADA STATE BOARD OF HEALTH

NEVADA STATE HEALTH DIVISION

4150 Technology Way, Suite 300
CARSON CITY, NV 89706

HEALTH DIVISION
ADMINISTRATOR

APPLICATION FOR VARIANCE

Please check the appropriate box that pertains to the NAC for which you are requesting a variance.

☐

Division Administration
(NAC 439, 441A, 452, 453A, & 629)

☒

Health Care Quality & Compliance
(NAC 449, 457, 459 & 652)

☐

Child, Family & Community Wellness
(NAC 392, 394, 432A, 439, 441A, & 442)

☐

Health Statistics, Planning &
Emergency Response
(NAC 440, 450B, 452, 453, 453A, & 695C)

☐

Frontier and Rural Health Services
(NAC 211, 444, 446, 447, 583, & 585)

Date: 3/30/11

Name of Applicant: Gregory Kronenberg Phone: 775-777-3471

Mailing Address: 3525 Ridgcrest Drive

City: Elko State: NV Zip: 89801

We do hereby apply for a variance to chapter/section NAC 449.993 of the Nevada Administrative Code (NAC). (For example: NAC 449.204)

Title of section in question: Diagnostic radiological services

Statement of existing or proposed conditions in violation of the NAC:

Only a physician may perform a fluoroscopy.
Requesting that myself, a Certified Registered
Nurse Anesthetist, be permitted to perform fluoroscopy
during pain management procedures.

Date of initial operation (if existing): NA

ATTENTION: Please read this section closely. Your request for variance will be examined against these criteria:

Any person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgement of a substantial property right may apply for a variance from a regulation. (NAC 439.200(1))

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:

(a) There are circumstances or conditions which:

- (1) Are unique to the applicant;
- (2) Do not generally affect other persons subject to the regulation;
- (3) Make compliance with the regulation unduly burdensome; and
- (4) Cause a hardship to and abridge a substantial property right of the applicant; and

(b) Granting the variance:

- (1) Is necessary to render substantial justice to the applicant and enable him to preserve and enjoy his property; and
- (2) Will not be detrimental or pose a danger to public health and safety.

2. Whenever an applicant for a variance alleges that he suffers or will suffer economic hardship by complying with the regulation, he must submit evidence demonstrating the costs of his compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable. (NAC 439.240)

Therefore, it is important for your variance request to be as complete as possible. It is your responsibility to attach documentation supportive of your variance request.

Statement of degree of risk of health

Radiation exposure to patient, staff assisting and self. Great Basin Surgical Center has a radiation safety program, which is overseen by Dr. Golding (Elko Diagnostic Center).

Please state in detail the circumstances or conditions which demonstrate that:

1. An exceptional and undue hardship results from a strict application of the Regulation:

Because pain management procedures are performed not at the ordering physicians office, Great Basin Surgical Center must hire a physician to be in procedure room during procedures. This makes for very difficult scheduling and added cost to patient and facility.

2. The variance, if granted, would not:

A. Cause substantial detriment to the public welfare.

Variance would actually increase patient access and improve care, by permitting them, timely access to care, following injury, as well as convenience of not leaving area to obtain same care.

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B. Impair substantially the purpose of the regulation from which the application seeks a variance.

HEALTH DIVISION
ADMINISTRATOR

As a Certified Registered Nurse Anesthetist, Spinal injections, for alteration of pain are within my scope of practice. I have Eight years pain management experience, including Basic and Advanced Pain Management Certification. Radiation Safety was included in all courses.

The bureau may require the following supporting documents to be submitted with and as a part of this application:

- _____ 1. Legal description of property concerned _____
- _____ 2. General area identification map
- _____ 3. Plat map showing locations of all pertinent items and appurtenances
- _____ 4. Well log (if applicable)
- _____ 5. Applicable lab reports
- _____ 6. Applicable engineering or construction/remodeling information
- _____ 7. Other items (see following pages)

This application must be accompanied by evidence demonstrating the costs of your compliance with regulations or specific statutory standards. Your request will be placed on the Board of Health agenda 40 days or more after receipt in this office if accompanied by the required fee (NAC 439.210). The application

and supporting documentation will form the basis for the Health Division staff report and recommendation to the Board. Failure to respond to the above statements may cause the Board to deny consideration of the application at the requested Board meeting.

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HEALTH DIVISION
ADMINISTRATOR

Please schedule this hearing as:

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The next regularly scheduled Board of Health meeting, regardless of location.

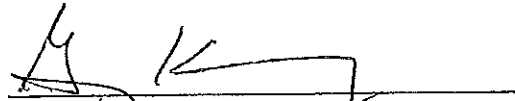
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The next scheduled meeting in Carson City.

☐

The next scheduled meeting in Las Vegas.

Signature:



Printed Name:

Gregory Kronenberg

Title:

Certified Registered Nurse Anesthetist

Date:

3/30/11

**PLEASE MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO:
NEVADA STATE HEALTH DIVISION AND RETURN THIS APPLICATION,
ALONG WITH THE REQUIRED FEE PURSUANT TO NAC 439.210, TO:**

Richard Whitley, MS, Administrator
Nevada State Health Division
4150 Technology Way, Suite 300
Carson City, NV 89706

(See the attached table to determine the appropriate fee)

To calculate the appropriate fee to apply for a variance from the State Board of Health, please see the following table:

<p>As of October 7, 2010, if the requested variance affects:</p> <ul style="list-style-type: none"> ▪ A property, facility or other entity or person in Carson City ▪ A property, facility or other entity or person in Lyon County ▪ A property, facility or other entity or person in Storey County <p>The fee to apply, based on the cost to publish the notice of the request for a variance in the Nevada Appeal, is:</p>	\$267.00
<p>As of October 7, 2010, if the requested variance affects:</p> <ul style="list-style-type: none"> ▪ A property, facility or other entity or person in Churchill County <p>The fee to apply, based on the cost to publish the notice of the request for a variance in the Lahontan Valley News, is:</p>	\$152.00
<p>As of October 7, 2010, if the requested variance affects:</p> <ul style="list-style-type: none"> ▪ A property, facility or other entity or person in Douglas County <p>The fee to apply, based on the cost to publish the notice of the request for a variance in the Record Courier, is:</p>	\$160.00
<p>As of October 7, 2010, if the requested variance affects:</p> <ul style="list-style-type: none"> ▪ A property, facility or other entity or person in Clark County <p>The fee to apply, based on the cost to publish the notice of the request for a variance in the Las Vegas Review Journal/Las Vegas Sun, is:</p>	\$220.00
<p>As of October 7, 2010, if the requested variance affects:</p> <ul style="list-style-type: none"> ▪ A property, facility or other entity or person in Mineral County <p>The fee to apply, based on the cost to publish the notice of the request for a variance in the Mineral County Independent News, is:</p>	\$165.00
<p>As of October 7, 2010, if the requested variance affects:</p> <ul style="list-style-type: none"> ▪ A property, facility or other entity or person in Nye County <p>The fee to apply, based on the cost to publish the notice of the request for a variance in the Pahrump Valley Times, is:</p>	\$ 98.00

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<p>As of October 7, 2010, if the requested variance affects:</p> <ul style="list-style-type: none"> ▪ A property, facility or other entity or person in Washoe County <p>The fee to apply, based on the cost to publish the notice of the request for a variance in the Reno Gazette Journal, is:</p>	\$150.00
<p>As of October 7, 2010, if the requested variance affects:</p> <ul style="list-style-type: none"> ▪ A property, facility or other entity or person in Elko County <p>The fee to apply, based on the cost to publish the notice of the request for a variance in the Elko Daily Free Press, is:</p>	\$107.00 ✓
<p>As of October 7, 2010, if the requested variance affects:</p> <ul style="list-style-type: none"> ▪ A property, facility or other entity or person in Eureka County <p>The fee to apply, based on the cost to publish the notice of the request for a variance in the Eureka Sentinel, is:</p>	\$137.00
<p>As of October 7, 2010, if the requested variance affects:</p> <ul style="list-style-type: none"> ▪ A property, facility or other entity or person in White Pine County <p>The fee to apply, based on the cost to publish the notice of the request for a variance in the Ely Times, is:</p>	\$171.00
<p>As of October 7, 2010, if the requested variance affects:</p> <ul style="list-style-type: none"> ▪ A property, facility or other entity or person in Humboldt County ▪ A property, facility or other entity or person in Lander County ▪ A property, facility or other entity or person in Pershing County <p>The fee to apply, based on the cost to publish the notice of the request for a variance in the Reno Gazette Journal is:</p>	\$150.00
<p>As of October 7, 2010, if the requested variance affects:</p> <ul style="list-style-type: none"> ▪ A property, facility or other entity or person in Esmeralda County ▪ A property, facility or other entity or person in Lincoln County <p>The fee to apply, based on the cost to publish the notice of the request for a variance in the Las Vegas Review Journal/Las Vegas Sun is:</p>	\$220.00

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HEALTH DIVISION
ADMINISTRATORAs of **October 7, 2010**, if the requested variance affects:

- A property, facility or other entity or person in **more than one County**

The fee to apply is based on the total cost to publish the notice of the request for a variance in the newspaper(s) of the area(s) affected.

Example: If a variance is being requested in Carson City that will also affect Washoe County, the fee is calculated as follows:

Nevada Appeal	\$267.00
Reno Gazette Journal	<u>\$150.00</u>
Total Fee=	\$417.00

Calculate
based on
instructions
to the left

***Note: If the appropriate fee is not submitted with your variance application, you will be contacted by staff in order to collect the correct fee prior to proceeding with review of the variance request.**

Summary of Newspaper Variance Request Publishing Costs:

Elko Daily Free Press	\$107.00
Ely Times	\$171.00
Eureka Sentinel	\$137.00
Lahontan Valley News	\$152.00
Las Vegas Review-Journal/Las Vegas Sun	\$220.00
Mineral County Independent News	\$165.00
Nevada Appeal	\$267.00
Pahrump Valley Times	\$ 98.00
Record Courier	\$160.00
Reno Gazette Journal	\$150.00

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HEALTH DIVISION
ADMINISTRATOR



Council on Recertification of Nurse Anesthetists

Be it known that

Gregory Kronenberg, CRNA

has satisfied the requirements for

Recertification

as prescribed by

The Council on Recertification of Nurse Anesthetists

048775

AANA ID#

August 01, 2009

Effective Date

July 31, 2011

Expiration Date



Karen Plaus

Karen Plaus, PhD, CRNA, FAAN, Executive Director